HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Appeal No.441 of 2006

Between:

P.Chandan Chakravarthy … Appellant.

AND

Union of India, rep. by its Secretary,

Civil Aviation, New Delhi and others. … Respondents.

:: JUDGMENT ::

Counsel for the Appellant : Sri M. Surender Rao

Counsel for the Respondents : Sri A. Rajashekar Reddy,

Assistant Solicitor General

25th APRIL 2006

Per G.S. Singhvi, C.J.

Whether in exercise of power under Article 226 of the Constitution, the High Court can grant declaration of equivalence in respect of any particular qualification or examination is the question which arises for determination in this appeal filed by Sri P. Chandan Chakravarthy against order dated 7-1-2006 passed by the learned Single Judge in Writ Petition No.4459 of 2002.

For deciding the above noted question, it will be useful to briefly notice the facts of the case.

After passing X Class examination conducted by Central Board of Secondary Education in 1989, the appellant took studentship of Aeronautical Society of India (for short, 'the Society'). He is said to have successfully completed the studentship course. Thereafter, he applied for grant of commercial pilot's licence. His application was rejected by the Director General of Civil Aviation (respondent No.2) on the ground that he does not possess the prescribed qualification. The appellant challenged the decision of respondent No.2 in Writ Petition No.4459 of 2002. He also filed WPMP.No.5558 of 2002. By an interlocutory order dated 16-7-2002, the learned Single Judge directed the respondents to consider the appellant's representation dated 12-2-2002 in accordance with law. In compliance of that order, respondent No.2 reconsidered the appellant's prayer for grant of commercial pilot's licence, but declined the same vide communication dated 9-9-2002, the relevant extracts of which are reproduced below:

> "As per the directions of the Honourable High Court of Andhra Pradesh, Hyderabad dated 16-7-2002 in WPMP.No.558 of 2002 in W.P.No.4459 of 2002 the representation dated 12-2-2002 received from our counsel was duly considered to the following results.
>
> It is hereby clarified that there is no scope to grant the commercial pilot's licence (CPL) under the Aircraft Rules 1937 read with regulations CAR Section 2 series E part VIII dated 07-11-1997 and amendment 1 dated 03-02-1999 on the basis of studentship of Aeronautical Society of India (ASI) and consider it as equivalent to 10+2. The said society has duly clarified vide letter dated 22-02-2001 to the effect that the said studentship is not equivalent to 10+2. Thus the requirements in the rules have not been satisfied, thereby leaving no scope for the grant of licence.
>
> It is also clarified that the recognition of the studentship of Aeronautical

> Society of India for the purpose of grant of Aircraft Maintenance Engineer (AME) Licence has no nexus to the CPL since the said studentship was recognised for the purpose of admission to the AME training institutes as stated in CAR series E Part VIII. In the light of the above your request for grant of CPL on the basis of studentship of Aeronautical Society of India is not possible to be accepted."

Learned Single Judge, who finally heard the writ petition, referred to the relevant rules and held that the writ petitioner is not eligible to get commercial pilots licence, because he does not possess the qualification of 10+2.

Sri Surender Rao made strenuous efforts to persuade us to set aside the order under challenge and issue a mandamus to the respondents to grant commercial pilot's licence to his client by arguing that the Society had entertained his candidature for studentship without raising any objection to his eligibility and he was allowed to prosecute the course for a period of five years by spending a sum of Rs.8,00,000/-.
Sri Surender Rao then argued that the reason assigned by respondent No.2 for refusing to grant commercial pilot's licence to the appellant is legally untenable because the five years training undergone by the appellant is equivalent to 10+2 qualification.

In our opinion, there is no merit in the submission of the learned counsel. It is an admitted position that 10+2 or an equivalent with Physics and Mathematics from a recognised Board/ University is an essential qualification for grant of commercial pilot's licence. It is neither the pleaded case of the appellant nor any material has been placed before us to show that the studentship training undergone by a candidate with the Society has been declared by the Government of India as equivalent to 10+2. It is also not the pleaded case of the appellant that the Society is a recognised Board or University. Therefore the appellant, who possess the qualification of Xth class pass only, is not entitled to the grant of commercial pilot's licence. As a corollary to this, it must be held that the learned Single Judge did not commit any error by refusing to entertain the appellant's prayer for issue of a direction to the respondents to treat him eligible for grant of commercial pilot's licence.

We are further of the view that the question of treating the studentship of the Society as equivalent to 10+2 examination cannot be decided by the Court. This exercise has to be undertaken by the competent authority, which is supposed to possess expertise to determine the question of equivalence, keeping in view the nature of true qualifications, the curriculum prescribed for the training and the job requirement. Therefore, in the absence of declaration of equivalence by the competent authority, it is not possible for this Court to entertain the appellant's prayer for issue of mandamus to the respondents to treat him eligible for grant of commercial pilot's licence, despite the fact that he does not possess the prescribed qualification of 10+2.

No other point has been argued.

In the result, the appeal is dismissed.

G.S. SINGHVI, C.J.

25th April, 2006

G. BHAVANI PRASAD, J.

ARS/GRR